

CCRB CASE CLOSING FORM

Investigator assigned: Smith		Team: 4	CCRB#: 9605572	FADO: F,D
Date of incident: 12/04/96	Time of incident: 1915	Location of incident: Westminster Rd. & Church Ave. Bkln	Pct. of occurrence: 070	Date SOL expires: 06/04/98
Date reported: 12/06/96	Time reported: 2246	To whom/where/how reported: Police Personnel		
Complainant: § 87(2)(b)		Home address: § 87(2)(b)		
Victim(s): Same as above				
Witness(es):				
Subject officer(s) (include rank): PO Jan Vandenende Sgt. Micheal Kemper		Shield: 27360 04288	Tax: 889382 889418	Command: BSTF BSTF
Witness officer(s) (include rank): n/a				
Allegation(s) by letter: <ul style="list-style-type: none"> A. PO Vandenende told § 87(2)(b) to "Shut up asshole." B. PO Vandenende slammed § 87(2)(b) into the side of the RMP. C. PO Vandenende told § 87(2)(b) that he did not want to speak to any of his "drug dealing friends." D. Sgt. Kemper called § 87(2)(b) at his home and called him a "scumbag" and told him to "watch out when he's on the street in his neighborhood." 				Recommendation(s): <ul style="list-style-type: none"> § 87(2)(g) § 87(2)(g) § 87(2)(g) § 87(2)(g)

NOTE: PO Marchetta was the witness officer in this occurrence but was not interviewed. See Summary.

Summary

On December 4, 1996 at approximately 8:15 p.m., § 87(2)(b) was standing on the corner of Westminster Rd. and Church St. in Brooklyn in front of a store. While on the corner, a blue and white RMP pulled up and two uniformed officers exited the vehicle. The subject officer, identified as PO Vandenende, approached § 87(2)(b) and observed that he was in possession of an open quart

container of Budweiser beer. PO Vandenende asked § 87(2)(b) for identification and § 87(2)(b) provided a form of "Governmental Identification." PO Vandenende then asked § 87(2)(b) what his address was but § 87(2)(b) would not disclose the specific address and only indicated that he lived down the street. § 87(2)(b) and PO Vandenende went back and forth on the issue and § 87(2)(b) began to protest. At this time, according to § 87(2)(b) PO Vandenende told him, "Shut up asshole." PO Vandenende then placed § 87(2)(b) against the RMP where he was searched, handcuffed and placed in the RMP behind PO Vandenende who was the operator. PO Marchetta sat in the back with § 87(2)(b). While in the RMP on their way to the 70th. precinct, § 87(2)(b) complained that the handcuffs were too tight on his wrists. When they arrived at the precinct, § 87(2)(b) asked Sgt. Kemper who was assigned to the desk that evening, to make a notation in the command log about numbness in his left thumb as a result of the handcuffs being too tight. (Encl.#40). § 87(2)(b) stated that he also requested to file a complaint about the incident but Sgt. Kemper told him that it would take a few hours for it to be typed up. § 87(2)(b) left the precinct without the complaint form and returned the next day to pick it up. He indicated that later that day, Sgt. Kemper called his home and called him a scumbag and told him to watch out while he's on the street in his neighborhood.

PO Marchetta was unable to be interviewed because he resigned from NYPD on 1/26/97 and is now a member of the NYFD. This was confirmed by Barbara Freeman at the "Wheel" and PO Lacagnina at PBBSTF.(Encl.#90) He did not have any verbal or physical interaction with § 87(2)(b) according to PO Vandenende and § 87(2)(b)

§ 87(2)(b) received two summonses. One for § 87(2)(b) § 87(2)(b) and one for Drinking in Public # § 87(2)(b) (Encl. #12). The § 87(2)(b) summons was dismissed on § 87(2)(b), docket § 87(2)(b) and § 87(2)(b) paid a \$15 fine for the Drinking in Public summons, docket # § 87(2)(b)

§ 87(2)(b) stated that he went to his doctor to have his hand examined. § 87(2)(b) was contacted numerous times to obtain the name of his new physician who diagnosed him with a pinched nerve. § 87(2)(b) never disclosed the information in order for medical records to be ordered.(Encl.89-91)

Analysis

§ 87(2)(b) was standing on the corner of Westminster Rd. and Church Ave. in Brooklyn at a Corner store. It is undetermined if § 87(2)(b) was standing with anyone at the time. He claims that he was on the corner with his friend § 87(2)(b) who lives on the same street. However, PO Vandenende stated that there were no other people near Mr. Parato during the incident and § 87(2)(b) was alone on the corner. § 87(2)(b) submitted a written statement regarding the events that took place.(Encl.#15-16). He was contacted by phone several times to come in for a formal interview and agreed to come in on March 10, but missed the appointment. § 87(2)(b) was called again and sent a witness contact letter on 3/11/97 and 4/3/97 but he did not respond. His written statement basically reiterates what § 87(2)(b) stated happened. § 87(2)(g)

It is believed that § 87(2)(b) did have a container of beer when he was approached by the officers

§ 87(2)(b) indicated in his complaint report that "the beer was not mine" § 87(2)(g)

§ 87(2)(b) first allegation is that PO Vandenende told him, "Shut up asshole." PO Vandenende denied making this comment toward § 87(2)(b). However, PO Vandenende stated that § 87(2)(b) became loud and boisterous on the corner and a crowd began to gather. PO Vandenende also recalled § 87(2)(b) making the comment, "You guys are nothing but a bunch of ball busters!" In addition, when PO Vandenende asked for his home address he only said he lived down the block. Therefore, PO Vandenende had to ask him for the address several times. PO Vandenende also indicated that § 87(2)(b) had alcohol on his breath and was slurring his words suggesting that he was intoxicated. (Encl.#5). § 87(2)(g)

§ 87(2)(b) second allegation was that PO Vandenende "slammed" him up against the RMP. PO Vandenende stated that he did put § 87(2)(b) "up against the RMP for a quick toss." § 87(2)(g) § 87(2)(b) did receive a summons for § 87(2)(b) and was noncompliant while being handcuffed. § 87(2)(g)
§ 87(2)(b) may have been intoxicated, § 87(2)(g)
§ 87(2)(b) did not claim any injuries as a result of being placed against the RMP. § 87(2)(g)

§ 87(2)(b) third allegation was that "the desk Sergeant from the night before"(Sgt. Kemper) called his house the next day and told him that he shouldn't have gone behind the sergeant's back and filed the complaint. He also indicated that this sergeant called him a scumbag and told him to watch out while he's on the street in his neighborhood. § 87(2)(g)

Sgt. Kemper denied calling § 87(2)(b) and threatening him and calling him names. § 87(2)(g)

§ 87(2)(b) also alleged that PO Vandenende told him that he didn't want to speak to any of his "drug dealing friends" when he told him to speak to § 87(2)(b). § 87(2)(g)

§ 87(2)(b) arrest record was checked. There were three arrests for § 87(2)(b), one in 1991 and two after the date of occurrence but none were narcotics related.(Encl.#17-19). § 87(2)(g)

§ 87(2)(b) claimed that he received a pinched nerve as a result of the handcuffs being too tight. He also complained to Sgt. Kemper at the desk, of numbness to his left hand. Sgt. Kemper noted his

complaint in the Command Log. § 87(2)(g)

[REDACTED]

Investigator: Lea Smith

Date: 5/27/97

Supervisor: Brian D.

Date: 5/27/97

Reviewed by: _____

Date: _____

Reviewed by: _____

Date: _____